IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

Crl.MC.No. 1635 of 2007()

AGAINST ELECHEM COMPANIES CASE FILED AGAINST M.K. TRADING COMPANY IN THE COURT OF SH.KULJITPAL SINGH PCS CIVIL JUDGE (JR.DIV) CUM JMIC, RAJPURA)

PETITIONER: PETITIONERS/ACCUSED.

KABIRDAS, S/O. RAMAN, AGED 48 YEARS,
M.K.TRADING COMPANY, 571/804, MAHAKAVI G. ROAD,
IYYATTIL JUNCTION, ERNAKULAM, KOCHI - 11.

BY ADV. SRI.P.M.JOSHI

RESPONDENTS: RESPONDENTS/COMPLAINANT.

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1. M/S. ELE CHEM SYSTEMS, THROUGH ITS PROPRITOR SH.GURPREET SINGH, S.C.F.57, GOVIND VIHAR, BALTANA, ZIRKPUR, DISTRICT MOHALI, PUNJAB.

2. CIRCLE INSPECTOR OF POLICE, CENTRAL POLICE STATION, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1635 of 2007

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Dated this the 23rd day of May, 2007

O R D E R

The petitioner has come to this Court with a strange request. He faces indictment in a prosecution under Section 138 of the N.I. Act before the Court of Sh. Kuljitpal Singh PCS civil Judge (Jr. Div.) cum JMIC, Rajpura, Punjab. According to him, though he had engaged a counsel, he is unable to identify and ascertain the number of the case. A warrant of arrest has been issued against the petitioner. The petitioner apprehends that he may be arrested and taken in custody to Punjab. It is in these circumstances that he has come to this Court with a prayer that further proceedings against him may be stayed.

2. Obviously in the light of the decision in **Meenakshi Stahish** v. **Southern Petrochemical Industries** (2007 (1) KLT 890 (FB)) the relief of quashing the proceedings or any relief against the cognizance taken by the Court at Punjab cannot be issued by this Court. But I find merit in the prayer of the petitioner that atleast appropriate directions under Section 438 Cr.P.C. may be issued in

his favour to ensure that he is not unnecessarily arrested and dragged to Punjab by the police officials. The petitioner undertakes to appear before the Court having jurisdiction, if a reasonable time were granted to him.

3. I am satisfied in the facts and circumstances of this case that an appropriate direction under Section 438 Cr.P.C. can be issued in favour of the petitioner, against whom Annex.I intimation has been issued directing his presence before the Court of Sh. Kuljitpal Singh PCS civil Judge (Jr. Div.) cum JMIC, Rajpura, Punjab, in a prosecution under Section 138 of the N.I. Act initiated by the first respondent herein.

4. This Crl.M.C. is accordingly allowed in part. The following directions are issued under section 438 Cr.P.C.

(a) The petitioner shall appear before the learned C.J.M., Ernakulam, on or before 4.6.2007 and shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned C.J.M. undertaking to appear on or before 9.7.2007 before the Court of Sh. Kuljitpal Singh PCS civil Judge (Jr. Div.) cum JMIC, Rajpura, Punjab in the prosecution under Section 138 of the N.I. Act launched by the first respondent.

(b) The petitioner shall undertake to appear before the said Court at Punjab in the prosecution under Section 138 of the N.I. Act initiated by the first respondent on or before 9.7.2007.

© The petitioner shall before 16.7.2007 intimate to the learned C.J.M. that the above directions regarding appearance has been complied with and produce requisite evidence to confirm the same. If not, the learned C.J.M. shall proceed against the petitioner and his sureties.

(d) The warrant of arrest issued against the petitioner shall not be executed till 9.7.2007, if the above directions are complied with by the petitioner.

5. Hand over copy of the order to the learned counsel for the petitioner.

(R. BASANT)
Judge

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